

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

FREDERICK GRAY, )  
                        )  
Plaintiff,           )  
                        )  
vs.                   ) Case No. CIV-09-0909-F  
                        )  
GREGORY RITTER, et al., )  
                        )  
Defendants.          )

**ORDER**

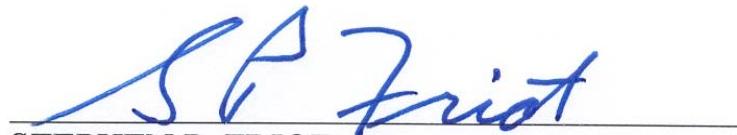
Plaintiff Frederick Gray, a state prisoner appearing *pro se* and *in forma pauperis* whose pleadings are liberally construed, brings this action pursuant to 42 U.S.C. § 1983 alleging a violation of his constitutional rights.

Plaintiff has objected to the October 8, 2010 Report and Recommendation of Magistrate Judge Bana Roberts (doc. no. 55), in which Magistrate Judge Roberts recommends: that defendants' motion to quash (doc. no 47) be construed as a motion to dismiss for insufficient service of process under Rule 12(b)(5), Fed. R. Civ. P., and granted; that plaintiff's claims against defendants be dismissed without prejudice for failure to serve process; and that plaintiff's motions for appointment of counsel (doc. no. 46) and for injunctive relief (doc. nos. 49, 52) be denied; and that defendant's motion for a stay of proceedings (doc. no. 53) as well as plaintiff's motion filed in response (doc. no. 54), be denied as moot.

As required by 28 U.S.C. §636(b)(1), the court has reviewed all objected to matters *de novo*. Having concluded that review, and after careful consideration of plaintiff's objections, the record, and the relevant authorities, the court finds that it agrees with the Report and Recommendation of the Magistrate Judge and that no purpose would be served by stating any further analysis here.

Accordingly, plaintiff's objections to the Report and Recommendation of Magistrate Judge Roberts are **DENIED**, and the Report and Recommendation is **ACCEPTED, ADOPTED**, and **AFFIRMED** in its entirety. The motion to quash is construed as a motion to dismiss for insufficient service of process under Rule 5, Fed.R.Civ.P., and is **GRANTED**. Plaintiff's claims against defendants are hereby **DISMISSED** without prejudice for failure to serve process. Plaintiff's motions for appointment of counsel and for injunctive relief are **DENIED** as moot. Finally, defendants' motion for a stay of proceedings, as well as plaintiff's motion filed in response, are **DENIED** as moot.

Dated this 24<sup>th</sup> day of November, 2010.



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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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